UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,064	11/21/2001	George Calcev	CML00019N	3765

			EXAMINER
22917	7590	03/08/2005	STEVENS, ROBERTA A

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2665	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _21 November 2001_.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-26_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1, 3, 5-7, 9, 11-17, 19, 21-26_ is/are rejected.

7) ☒ Claim(s) _2,4,8,10,18 and 20_ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _03-08-04_.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1, 3, 7, 9, 13 and 17 are rejected under 35 U.S.C. 102(e) as being

anticipated by Rezaiifar (U.S. 2003/0193907 A1).

3.   Regarding claim 1, Rezaiifar teaches (fig. 2) in a CDMA network, a method for

controlling a pilot of a cell, comprising: determining a transcoder loss (bit error rate) per

frame within the cell; and computing a cell performance matrix of the cell when the

transcoder loss per frame is equal to greater than a threshold value (page 4, paragraphs

36-38).

4.   Regarding claim 3, Rezaiifar teaches (page 5, paragraphs 61-67) computing a

cluster performance matrix of a cell cluster (cells j to I) associated with the cell when the

transcoder loss (bite error rate) per frame is equal to or greater than a threshold value, the

cell cluster.

5.   Regarding claim 7, Rezaiifar teaches (page 5, paragraphs 61-67) a CDMA

network, comprising: a cell having a pilot power; a base station operable to determine a

transcoder loss (bit error rate) per frame within the cell, and to compute a cell

performance matrix of the cell when the transcoder loss per frame is equal to or greater

than a threshold value (page 4, paragraphs 36-38).

6.   Regarding claim 9, Rezaiifar teaches (page 5, paragraphs 61-67) a cell cluster

associated with the cell (cells j to I), wherein the base station is further operable to

compute a cluster (cells j to I) performance matrix of the cell cluster when the transcoder

loss per frame is equal to or greater than a threshold value.

7.   Regarding claim 13, Rezaiifar teaches (page 5, paragraphs 61-67) a CDMA

network, comprising: a cell having a pilot power; means for determining a transcoder loss

(bit error rate) per frame within the cell; and means for computing a cell performance

matrix of the cell when the transcoder loss per frame is equal to greater than a threshold

value (page 4, paragraphs 36-38).

8.   Regarding claim 14, Rezaiifar teaches (page 5, paragraphs 61-67) a cell cluster

associated with the cell (cells j to I), means for computing a cluster (cells j to I)

performance matrix of the cell cluster when the transcoder loss per frame is equal to or

greater than a threshold value.

9.   Regarding claim 17, Rezaiifar teaches (fig. 2) a computer readable medium

storing a computer program for controlling a pilot power of a cell within a CDMA

network, comprising: computer readable code for determining a transcoder loss (bit error

rate) per frame within the cell; and computer readable code for computing a cell

performance matrix of the cell when the transcoder loss per frame is equal to greater than

a threshold value (page 4, paragraphs 36-38).

10.   Regarding claim 19, Rezaiifar teaches (page 5, paragraphs 61-67) computer

readable code for computing a cluster performance matrix of a cell cluster (cells j to I)

associated with the cell when the transcoder loss (bite error rate) per frame is equal to or

greater than a threshold value, the cell cluster.

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

12.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the

various claims was commonly owned at the time any inventions covered therein were

made absent any evidence to the contrary. Applicant is advised of the obligation under

37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

13.   Claims 5, 11, 12, 15, 16, and 21-26 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Rezaiifar in view of Valkealahti (U.S. 2004/0242257 A1).

14.   Regarding claims 5, 11, 15 and 21, as mentioned above Rezaiifar teaches all of

the limitations of claim 3.

15.   Rezaiifar does not teach decreasing the pilot power of the cell when the cell

performance matrix is less than the cluster performance.

16.   Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell

performance. It would have been obvious to one of ordinary skill in the art to adapt to

Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service

within the system.

17.   Regarding claims 12, 16 and 22, Rezaiifar does not teach increasing the pilot

power of the cell when the cell performance matrix is equal to or greater than the cluster

performance.

18.   Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell

performance. It would have been obvious to one of ordinary skill in the art to adapt to

Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service

within the system.

19.   Regarding claim 23, Rezaiifar teaches (fig. 2) a method of controlling pilot power

of a cell within a CDMA network, comprising: computing a cell performance matrix

(page 5, paragraphs 61-67) of the cell; computing a cluster performance matrix of a cell

cluster (cells j to I) associated with the cell

20.   Rezaiifar does not teach computing the pilot power based upon a computation of

the cell performance matrix.

21.   Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell

performance. It would have been obvious to one of ordinary skill in the art to adapt to

Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service

within the system.

22.   Regarding claim 24, Rezaiifar teaches (fig. 2) a CDMA network, comprising: a

cell having a pilot power; a cell cluster associated with the cell; and a base station,

wherein the base station is operable to compute a cell performance matrix of the cell,

wherein the base station is further operable to compute a cluster (cells j to I) performance

matrix of the cell cluster (page 5, paragraphs 61-67)

23.   Rezaiifar does not teach controlling the pilot power based upon a computation of

the cell performance matrix.

24.   Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell

performance. It would have been obvious to one of ordinary skill in the art to adapt to

Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service

within the system.

25.   Regarding claim 25, Rezaiifar teaches (fig. 2) a CDMA network, comprising: a

cell having a pilot power; means for computing a cell performance matrix of the cell, a

cell cluster (cells j to I) associated with the cell; means for computing a cluster (cells j to I) performance matrix of the cell cluster (page 5, paragraphs 61-67)

26.   Rezaiifar does not teach means for controlling the pilot power based upon a computation of the cell performance matrix.

27.   Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

28.   Regarding claim 26, Rezaiifar teaches (fig. 2) a computer readable medium storing a computer program for controlling a pilot power of a cell within a CDMA network, comprising: a computer readable code for computing a cell performance matrix (page 5, paragraphs 61-67) of the cell; a computer readable code for computing a cluster performance matrix of a cell cluster (cells j to I) associated with the cell

29.   Rezaiifar does not teach a computer readable code for computing the pilot power based upon a computation of the cell performance matrix.

30.   Valkealahti teaches (fig. 3) adjusting the pilot power corresponding to cell performance. It would have been obvious to one of ordinary skill in the art to adapt to Rezaiifar's system Valkealahti's adjustment of pilot power to ensure quality of service within the system.

Allowable Subject Matter

31.   Claims 2,4,8,10,18 and 20 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

Conclusion

32.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Roberta A Stevens whose telephone number is 571-272-

3161. The examiner can normally be reached on M-F 9:00am-5:30pm.

33.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

34.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

Roberta A Stevens
Examiner
Art Unit 2665

STEVEN NGUYEN
PRIMARY EXAMINER